



**DECISION AND STATEMENT OF REASONS OF MARTIN J. MCALLISTER,
LEGAL MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED
POWERS OF THE CHAMBER PRESIDENT**

**Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property
Chamber Rules of Procedure 2017 ("the Rules")**

in connection with

1/1, 12 Carolside Drive, Drumchapel, Glasgow, G15 7RQ ("the Property")

Case Reference: FTS/HPC/RP/21/1036

**Miss Diana Wallace, 1/1, 12 Carolside Drive, Drumchapel, Glasgow, G15 7RQ
("the Tenant")**

**Wheatley Group, Wheatley House, 25 Cochrane Street, Glasgow, G1 1HL ("the
Landlord")**

1. The Tenant submitted an application to the Tribunal on 30th April 2021 in terms of Section 22 (1) of the Housing (Scotland) Act. The Applicant sent a copy of the front page of the relevant tenancy agreement for the Property which shows that the tenancy commenced on 15th December 2021.
2. The tenancy agreement states that it is a Scottish Secure Tenancy.

DECISION

3. The Legal Member considered the application in terms of Rule 5 and Rule 43 of the Chamber Procedural Rules. Rule 5 provides: - (1) An application is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in rules 43, 47 to 50, 55, 59, 61, 65 to 70, 72, 75 to 91, 93 to 95, 98 to 101, 103 or 105 to 111, as appropriate. (2) The Chamber

President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgment have been met. (3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the requirement manner for lodgment. “

- 4. After consideration of the application the Legal Member considers that the application should be rejected in terms of Rule 8(1) (c) which states that an application must be rejected if the Tribunal has “good reason to believe that it would not be appropriate to accept the application.” The basis of the decision is that it is not competent for the Tribunal to determine the application because the landlord is a Registered Social Landlord and the tenancy is constituted as a Scottish Secure Tenancy.**

REASONS FOR DECISION

5. The Tenant’s application is in terms of Section 22(3) of the 2006 Act and Rule 48. Section 12 (1) (a) of the 2006 Act states that the repairing standard duty does not apply to a Scottish Secure Tenancy.
6. The landlord is a Housing Association and a Registered Social Landlord and the Applicant is contractually bound by a Scottish Secure Tenancy.
7. In the event that a tenant under a Scottish Secure Tenancy has exhausted the complaints process of a landlord then s/he can submit an application to the Scottish Public Services Ombudsman.

What you should do now

If you accept the Legal Member's decision, there is no need to reply.

If you disagree with this decision –

An applicant aggrieved by the decision of the Chamber President, or any Legal Member acting under delegated powers, may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them. Information about the appeal procedure can be forwarded to you on request.

M J McAllister

Martin J. McAllister, Legal Member
6th May 2021